

New Hampshire Racing & Charitable Gaming Commission
Commission Meeting
Concord Office
February 10, 2009
09-02

Present: Timothy J. Connors, Chairman
Warren W. Leary, Secretary
Michael J. Gatsas, Member
Lynn M. Presby, Member
Anthony B. Urban, Member
Bernard A. Streeter, Member
Paul M. Kelley, Director
Sudhir K. Naik, Deputy Director
Rose Wiant, Legal Counsel, AG's Office
Steve Johnston, Supervisor Gaming Operations
Billie Jean Arseneault, Gaming/Licensing Supervisor
William Dewhurst, Senior Auditor
Linda Glaser, Auditor
Shawn Graham, Auditor
Linda Darrow, Administrative Secretary

In Attendance: Jeff McKeon, Dan Callaghan, Ed Callahan, Marlin Torguson, Averill Cates, Karen Keelan, Jamie Timbas and others.

The Chairman called the meeting to order at 11:00 a.m.

On a motion by Commissioner Leary, seconded by Commissioner Urban and unanimously voted to approve and place on file the Commission minutes dated January 13, 2009.

On a motion by Commissioner Urban, seconded by Commissioner Streeter and unanimously voted to accept and place on file the racing & charitable gaming statistics for the fiscal period ending January 31, 2009. Statistics continue to show a downward trend.

The Games of Chance warning letters spreadsheets, financial and non-compliance were reviewed. Deputy Director Naik provided an update as to why so many non-compliance warnings had been issued this month. Even though the licenses for gaming were issued, the charities were late in picking up their badges due to miscommunication with the Commission. Commissioner Gatsas suggested that rather than listing the RSA in the warning description column, state the reason why the warning was issued. On a motion by Commissioner Urban, seconded by Commissioner Leary and unanimously voted to accept and place the spreadsheets on file.

The Games of Chance State Revenue spreadsheets were reviewed. On a motion made by Commissioner Urban, seconded by Commissioner Streeter and unanimously voted to accept and place them on file.

On a motion by Commissioner Gatsas, seconded by Commissioner Urban and by a majority vote, voted to approve The Lodge at Belmont's 2009 live racing schedule and to also allow a reduction of dogs in each race from eight (8) to six (6) for both greyhound tracks by voting to change the rule (policy) that originally required eight dogs in each race.

The 2009 Legislation Summary was reviewed by Director Kelley. He also provided copies of SB 179 (video lottery gaming with a 1% purse, oversight by RCGC) and SB169 (regulating video gaming-no role mentioned for RCGC). Discussion followed on what role the Racing and Charitable Gaming Commission will have if/when these bills become law. It was suggested that members of the Commission attend the hearings and work sessions in order to provide the committees with input from this agency and to keep abreast of developments. Director Kelley asked for the Commission's position on the pending legislation related to racing and gaming:

- On a motion by Commissioner Streeter, seconded by Commissioner Urban and voted to support a minimum 10% purse in all bills addressing purses, with oversight by the Racing and Charitable Gaming Commission. Commissioner Gatsas abstained. The goal is to bring back live racing to NH
- On a motion by Commissioner Presby, seconded by Commissioner Urban and unanimously voted to support current law regarding charitable gaming Games of Chance, Bingo and Lucky 7 with continued oversight by the Racing and Charitable Gaming Commission.
- On a motion by Commissioner Gatsas, seconded by Commissioner Urban and unanimously voted to continue Racing and Charitable Gaming's oversight of the state's racetracks and all gaming that may be established at those racetracks.
- On a motion by Commissioner Presby, seconded by Commissioner Streeter and unanimously voted to support live dog racing in NH.

The correspondence was reviewed. It was noted that the funds raised through Games of Chance are being put to good use by the charities.

The Distribution of Video Gaming Revenue was reviewed. It was noted that the states listed have purses well above the 1% that is being recommended for NH in SB 179. Comments were made that a 1% purse will do little to reestablish live racing in the state.

Under New Business:

- Governor & Council Breakfast – Director Kelley provided copies of the short presentation he will give at the breakfast scheduled for March 4th. Approximately 30 guests are expected for the breakfast which will be catered by Contemporary Catering. He asked for input on who the Commissioners would like to invite. Director Kelley also plans to give the Governor and Council a tour of the office.

At 12:15 p.m., on a motion by Commissioner Presby, seconded by Commissioner Leary and by unanimous roll call vote the Commission voted to recess and open the scheduled hearing.

Connors	-	Yes
Leary	-	Yes
Gatsas	-	Yes
Urban	-	Yes
Presby	-	Yes

Universal Manufacturing Hearing

At 12:20 p.m. Chairman Connors opened the hearing requested by Mr. Peter J. McCluskey, Jr. of Universal Manufacturing for the denial of a Lucky 7 ticket form. The Chairman swore in those who were to testify. Testimony was received from:

Billie Jean Arseneault – Gaming/Licensing Supervisor, RCGC
Peter McCluskey Jr. – Sales Representative, Universal Gaming

The Chairman asked if anyone else had any testimony or evidence to offer. Mr. Jamie Timbas, Primary Game Operator with Universal Gaming, stated his support for the ticket form which Universal Manufacturing is hoping to distribute in NH. The Chairman closed the hearing at 12:40 p.m.

On a motion by Commissioner Streeter, seconded by Commissioner Gatsas and by unanimous vote, the Commission made the following decision and order:

Decision & Order
Appeal of Universal Manufacturing Co.
Lucky 7 ticket form #1W3480SH, "Double Super Hog" Denial

Findings of Fact

1. On December 22, 2008, Universal Manufacturing Co. submitted a request for approval for lucky 7 ticket form #1W3480SH, "Double Super Hog".
2. By letter dated December 31, 2008, the Commission notified Universal Manufacturing Co. that the request for approval of lucky 7 ticket form #1W3480SH, "Double Super Hog" had been denied because lucky 7 tickets cannot be playable on both sides of the ticket as specified in Pari 1102.14, 1102.15, Pari 1112.05 and Pari 1112.06.
3. The Commission received an appeal form from Peter J. McCluskey, Jr. on behalf of Universal Manufacturing Co. on January 9, 2009.
4. On January 14, 2009, a hearing notice was sent regular and certified mail to Universal Manufacturing Co. notifying Universal Manufacturing Co. that an appeal hearing would be held on February 10, 2009 regarding the denial of the lucky 7 ticket form #1W3480SH, "Double Super Hog".
5. On February 10, 2009, the Commission held an appeal hearing regarding the denial of the lucky 7 ticket form #1W3480SH, "Double Super Hog".
6. Billie Jean Arseneault, Gaming Administration Supervisor for the Commission, provided testimony at the hearing stating that:
 - a. She received a request for a 2-sided ticket and that there are certain guidelines that she has to go through.
 - b. There are certain steps for Lucky 7 approval including requirements for the front of the ticket as specified in Pari 1112.05.
 - c. Regular, one-sided tickets have information on the face and pull tabs on the back.
 - d. This is a unique ticket which she has not seen before in doing tickets since 1994.
 - e. When you open the 2-sided ticket, both the front and back come off so the player does not have the payout structure anymore whereas the standard ticket would still have that information on the front of the ticket.
 - f. An email was sent out to other states asking for their feedback on this type of ticket and only 3 states have approved this ticket.
 - g. She received information that those states have had the following issues with these tickets:
 1. The ticket tends to get jammed in vending machines because of its thickness.
 2. The payout structure is gone once the ticket is opened.
 3. Players forget to play both sides of the ticket.
 - h. This ticket does not meet our rules so she couldn't approve it.
7. Peter J. McCluskey, Jr. on behalf of Universal Manufacturing Co. provided testimony at the hearing stating that:
 - a. New York, Pennsylvania and Minnesota have approved this type of 2-sided ticket.

- b. Not all Lucky 7 tickets are put in a vending machine.
 - c. Stiffer tickets vend better and this ticket would be stiffer than a regular ticket.
 - d. The ticket is sold for \$0.50 for play on both sides.
 - e. Even though the tabs with the payout information may be lost, there is a seal card and rules of play which have that information on them.
 - f. He has 2 years of experience with these tickets.
 - g. These tickets are very popular and players realize quickly that there are 2 sides.
 - h. These tickets have 2 fronts and 2 backs simultaneously.
 - i. The rules in essence presuppose that the ticket is a conventional one-sided pull tab and predate this as a product type.
 - j. This type of ticket is patented.
 - k. This is the first time that this type of ticket has been submitted in NH.
 - l. Every game that they make is exclusive with a distributor.
 - m. The company does not make general release type products which would be available to anybody.
 - n. They have not gotten to the point of making an agreement with a distributor.
 - o. Player would be looking for an instant winner graphic or a hold graphic to determine if they have won.
8. Jamie Timbers representing Ellas Distributors, LLC provided testimony at the hearing stating that:
- a. He is looking at this ticket from the perspective of the charity.
 - b. This is something new.
 - c. There is more “bang for the buck” for the player.
 - d. This will generate more money for the charity and the state.
 - e. The law says that the break open feature is in the back but does not say that the front cannot open.
 - f. This type of ticket should be allowed.

Conclusions of Law

- 1. Pari 1102.14 and Pari 1102.15 define what a lucky 7 ticket front and ticket back must be.
- 2. Pari 1112.05(b) specifies what must be on the lucky 7 ticket front.
- 3. Pari 1112.06 specifies that a ticket front and back must be provided for the commission to approve a ticket.
- 4. The Commission determined that the rules as currently written only allow for 1 ticket front containing the information required by Pari 1112.05(b) and 1 ticket back with pull tabs or other break-open features.
- 5. The Commission determined that the rules as currently written would prohibit the approval of a double-sided ticket.
- 6. Based on testimony given and information received, the Commission concludes that Universal Manufacturing Co.’s lucky 7 ticket form #1W3480SH, “Double Super Hog” is not eligible for approval.

Order

The Commission orders that the denial of Universal Manufacturing Co.’s lucky 7 ticket form #1W3480SH, “Double Super Hog” be upheld.

So Ordered.

The Commission would suggest that Universal Manufacturing, Co. consider filing a rulemaking petition pursuant to Pari 206. The rulemaking petition should include suggested changes to the current Pari 1100 rules to allow for double-sided tickets.

At 12:40 p.m. the Chairman reopened the public session. Deputy Director Naik introduced the three newly hired auditors to the Commissioners.

Ms. Arseneault addressed the Commission on background check issues that have developed with State Police. Discussion ensued. Director Kelley was asked to look into the possibility of purchasing or leasing a live-scan fingerprinting machine for the office.

At the March 4th meeting, the Commission will move forward with the changes to Pari 1000 and 1100, Bingo and Lucky 7 Rules; Pari 1200, Games of Chance.

Ms Eldridge returned from hearings on greyhound racing and updated the Commission. Little progress was made with both bills needing to be amended.

Regarding the Potts/Torguson settlement agreement submitted to the Commission, on a motion by Commissioner Urban, seconded by Commissioner Gatsas and unanimously voted that the Racing and Charitable Gaming Commission has no role in, and does not provide approvals to, settlement agreements intended to resolve a legal dispute between two private parties. Further, the Commission urges The Lodge at Belmont to continue to comply with all statutes and rules regarding financial reporting and notification of changes in organizational structure.

Chairman Connors stated the Commission is still awaiting a response from Attorney Richard Head of the Attorney General's office regarding possible criminal charges being filed against Hinsdale Greyhound Park sent to Attorney Head on January 5, 2009. Attorney Head had responded on January 5, 2009 that the inquiry had been directed to the Criminal Bureau. Chairman Connors will call Attorney Head and follow up with a letter inquiring into the status of his request.

At 12:55 p.m., on a motion by Commissioner Streeter, seconded by Commissioner Urban and by a unanimous roll call vote the Commission voted to adjourn the regular meeting, and go into non-public session.

Connors	-	Yes
Leary	-	Yes
Gatsas	-	Yes
Urban	-	Yes
Presby	-	Yes
Streeter	-	Yes

On a motion by Commissioner Streeter seconded by Commissioner Urban and by a unanimous roll call vote the Commission voted to come out of the non-public session at 1:45 p.m.

Connors	-	Yes
Leary	-	Yes
Gatsas	-	Yes
Urban	-	Yes
Presby	-	Yes
Streeter	-	Yes

Discussion ensued on the Annual Report.

The Commission's next meetings are scheduled for March 4, 2009 at 8:00 a.m. – Governor and Council Breakfast; and March 10, 2009 at 11:00. Both will be held in the Concord office.

The Chairman closed the public meeting at 2:20 p.m.

Respectfully Submitted,

Warren W. Leary
Secretary